HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 294 OF 2007

Between:

The Central Power Distribution Company
Of A.P. Ltd.,
Hyderabad & others

… Appellants

And

Gopal Agarwal & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri G.V.Raghava Reddy
for Shri M. Sreeramulu Reddy

10.04.2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 23.02.2007 passed by the learned Single Judge, whereby he allowed the writ petition filed by respondent No.1 and directed the appellants to extend the power supply to the establishment of the said respondent without insisting on payment of the arrears of consumption payable by the previous owner.

It is not in dispute that in response to tender/sale notice issued by the Authorised Officer of City Union Bank Limited (for short, 'the bank') under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, respondent No.1 participated in the open auction held on 27.3.2000 and gave highest bid of Rs.1,12,50,000/- for purchase of Ac.0.71 gts. of land comprised in Survey No.168, Bollaram Village, Jinnaram Mandal, Medak District

belonging to J.T. Alloys (P) Limited. The bank accepted his bid and executed the necessary documents for transfer of the property. After taking possession, respondent No.1 submitted an application to the competent authority of the Andhra Pradesh Central Power Distribution Company Limited. The concerned authority declined to release connection on the ground that the erstwhile consumer was in arrears to the tune of Rs.1,88,23,185/-.

Respondent No.1 challenged the refusal of the appellants to provide electric connection to him by contending that there was no privity of contract between him and the erstwhile consumer to pay the arrears of electricity dues and, therefore, he cannot be burdened with a liability of paying the dues of M/s.J.T. Alloys (P) Limited.

The learned Single Judge referred to the judgments of the Supreme Court in **Isha Marbles v. Bihar State Electricity Board**[1] and **Ahmedabad Electricity Co. Ltd. V. Gujarat Inns Pvt. Ltd.**[2] and issued the direction, which is under challenge in this appeal.

We have heard learned counsel for the parties and perused the record. It is neither the pleaded case of the appellants nor any evidence has been produced before the Court that respondent No.1, who purchased the property of the previous consumer, had undertaken to discharge the latter's liability. Therefore, it must be held that the appellants cannot withhold the supply of power to respondent No.1 on the spacious ground that arrears of the previous consumer have not been cleared.

With the above observation, the appeal is dismissed. However, liberty is given to the appellants to avail appropriate legal remedy for recovery of the dues of electricity from the erstwhile consumer.

As a sequel to dismissal of the appeal, W.A.M.P.No. 559 of 2007 filed by the appellants for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

10.04.2007
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[1] (1995) 5 SCC 648

[2] AIR 2004 SC 2071